

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION**

PATRICIA I. ERMINI,

Plaintiff,

v.

Case No: 2:15-cv-701-FtM-31CM

**MIKE SCOTT, CHARLENE PALMESE,
RICHARD LISENBEE, ROBERT
HAMER and WILLIAM MURPHY,**

Defendants.

ORDER

On January 5, 2018, the Court held a telephonic hearing, at which it heard argument on the Defendant's objection to Plaintiff's Exhibit No. 4. Plaintiff's Exhibit No. 4 is a Fee Agreement and Release for Wilbur Smith Law Firm. *See* Doc. 124. The Plaintiff argued that the Fee Agreement and Release is relevant to the issue of damages that the Plaintiff incurred as a result of her arrest. However, it appears from case law cited by the Defendant that fees for defending the Plaintiff against potential prosecution are not recoverable. Although the cases cited by the Defendant deal with false arrest, and not a negligence action, the logic in the courts' reasoning extends to the matter at hand. *See City of Miami Beach v. Bretagna*, 190 So. 2d 364, 365 (Fla. 3d DCA 1966); *see also City of St. Petersburg v. Hackman*, 672 So. 2d 42, 44 (Fla. 2d DCA 1996). Furthermore, the Plaintiff has not requested jury instruction on the pursuit of those legal fees as part of her damages, nor has she cited any authority indicating that such recovery is available.

Accordingly, the Defendant's objection to the Plaintiff's Exhibit No. 4, the Fee Agreement and Release for Wilbur Smith Law Firm, is **SUSTAINED**.

DONE and **ORDERED** in Chambers, Orlando, Florida on January 5, 2018.




GREGORY A. PRESNELL
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record
Unrepresented Party